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**Elliott Manufacturing Company and Machinists Local Lodge 653, District Lodge 190.** Case 32–CA–137848

January 25, 2017

**DECISION AND ORDER**

BY ACTING CHAIRMAN MISCIMARRA AND MEMBERS  
PEARCE AND MCFERRAN

The General Counsel seeks a default judgment in this case on the ground that Elliott Manufacturing Company, the Respondent, has failed to file an answer to the amended consolidated complaint and compliance specification. Upon a charge and amended charges filed by Machinists Local Lodge 653, District Lodge 190, the Union, on September 30, and October 16, 2014, and April 6, 2015, respectively, the General Counsel issued a complaint and notice of hearing on February 27, 2015, and an order consolidating amended complaint and compliance specification, amended consolidated complaint and compliance specification, and notice of hearing (the amended complaint and compliance specification) on April 16, 2015, alleging that the Respondent has violated Section 8(a)(5) and (1) of the Act. The Respondent failed to file an answer to either the complaint or the amended complaint and compliance specification.

On June 16, 2015, the General Counsel filed a Motion for Default Judgment with the Board. Thereafter, on June 24, 2015, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Union filed a joinder supporting the General Counsel's motion and requesting additional remedies. The Respondent filed no response. The allegations in the motion are therefore undisputed.

**Ruling on Motion for Default Judgment**

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. Similarly, Section 102.56 of the Board's Rules and Regulations provides that the allegations in a compliance specification will be taken as true if an answer is not filed within 21 days from service of the compliance specification. In addition, the amended complaint and compliance specification affirmatively stated that unless an answer was received by May 7, 2015, the Board may find, pursuant to a motion for default judgment, that the allegations in the amended complaint and compliance

specification are true. Further, undisputed allegations in the General Counsel's motion disclose that the Region, by letter dated May 11, 2015, notified the Respondent that unless an answer was received by May 18, 2015, a motion for default judgment would be filed.

On May 18, 2015, the Respondent's chief executive officer, Terry Aluisi, informed the Region that the Respondent did not dispute the amended complaint and compliance specification's allegation that it had failed to make required contributions to the Union's Pension and Welfare trust funds, but stated that the Respondent and the Union had reached or were close to reaching settlement on that issue. However, upon investigation, the Region discovered that Aluisi had mistakenly referred to the Respondent's Chapter 11 restructuring plan (which would be subject to other creditors' objections and the judge's approval) as a settlement offer. The Region also discovered that on May 20, 2015, the Respondent and the Union had executed a new collective-bargaining agreement; however, no settlement had been discussed regarding the delinquent trust fund contributions. On May 21, 2015, the Region informed Aluisi that, as no settlement had been reached, the Respondent was required to file an answer by May 28, 2015. Aluisi responded that the Respondent did not intend to file an answer. The Region again advised him of the consequences of such action and urged him to consult with counsel. On May 26, 2015, the Region sent the Respondent an email reminder of the May 28, 2015 deadline for filing an answer. Nevertheless, the Respondent failed to file an answer or to request any extension of time to file an answer.

The record does not indicate whether the Respondent is represented by counsel in this proceeding. Although the Board, unlike the federal courts,<sup>1</sup> permits respondent corporations to appear without counsel, the Board has consistently held that the choice to forgo representation by counsel does not establish good cause for failing to file a timely answer. See, e.g., *Patrician Assisted Living Facility*, 339 NLRB 1153, 1153 (2003); *Sage Professional Painting Co.*, 338 NLRB 1068, 1068 (2003). See also *Starrs Group Home, Inc.*, 357 NLRB 1219, 1219–1220 (2011); *Lockhart Concrete*, 336 NLRB 956, 957 (2001). In addition, it is well established that the institution of bankruptcy proceedings does not deprive the Board of jurisdiction or authority to entertain and process

<sup>1</sup> See *Rowland v. California Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 201–202 (1993) ("It has been the law for the better part of two centuries . . . that a corporation may appear in the federal courts only through licensed counsel."); *Palazzo v. Gulf Oil Corp.*, 764 F.2d 1381, 1385 (11th Cir. 1985) ("The rule is well established that a corporation is an artificial entity that can act only through agents, cannot appear pro se, and must be represented by counsel."), cert. denied, [474 U.S. 1058 \(1986\)](#).

an unfair labor practice case to its final disposition. See, e.g., *Cardinal Services*, 295 NLRB 933, 933 fn. 2 (1989), and cases cited therein. Board proceedings fall within the exception to the automatic stay provisions for proceedings by a governmental unit to enforce its police or regulatory powers. See *id.*, and cases cited therein; *NLRB v. 15th Avenue Iron Works, Inc.*, 964 F.2d 1336, 1337 (2d Cir. 1992) (per curiam). Accord: *Ahrens Aircraft, Inc. v. NLRB*, 703 F.2d 23, 24 (1st Cir. 1983).

Accordingly, in the absence of good cause being shown for the failure to file an answer, we grant the General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

#### FINDINGS OF FACT

##### I. JURISDICTION

At all material times, the Respondent has been a corporation with an office and place of business in Fresno, California, and has been engaged in the manufacture and nonretail sale of industrial scale packaging and wrapping.

In conducting its operations during the 12-month period ending January 31, 2015, the Respondent sold and shipped from its Fresno, California facility goods valued in excess of \$50,000 directly to points outside the State of California.

About February 2, 2015, the Respondent filed a petition under Chapter 11 of the United States Bankruptcy Code in the United States District Court for the Eastern District of California. Since about February 2, 2015, the Respondent has been a debtor-in-possession with full authority to continue its operations and to exercise all powers necessary to administer its business.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

##### II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and agents of the Respondent within the meaning of Section 2(13) of the Act:

Thomas Elliott Cole	-	Owner/President
Terry Aluisi	-	Chief Executive Officer
Jesse Cook	-	Facility Shop Foreman

The following employees of the Respondent (the unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All employees performing work described in and covered by Section 9 of the October 1, 2011 through September 30, 2014 collective-bargaining agreement between the Respondent and the Union; excluding all other employees, guards, and supervisors as defined in the Act.

Since at least October 1, 2011, and at all material times, the Respondent has recognized the Union as the exclusive collective-bargaining representative of the unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which (the 2011–2014 agreement) was effective from October 1, 2011, to September 30, 2014; it was extended to October 31, 2014, and was then extended indefinitely on October 31, 2014, until the Respondent or the Union serve written notice to the other party with a 48 hour notice to terminate.<sup>2</sup>

At all material times since at least October 1, 2011, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

The 2011–2014 agreement contains, inter alia, the following provisions:

(a) A provision (the Health and Welfare Provision) requiring the Respondent to provide unit employees and their dependents with health, dental, orthodontics, vision, and life insurance benefits provided by the Automotive Industries Welfare Trust Fund (the Health Fund) or a comparable plan (the Health Plan) to be funded seventy percent (70%) by the Respondent;

(b) A provision requiring the Respondent to submit monthly reports regarding hours worked by unit employees to the Health Fund;

(c) A provision requiring the Respondent to make monthly contributions on behalf of unit employees to the Health Fund, as well as to remit the employee share of the monthly contribution via payroll deduction to the Health Fund;

(d) A provision requiring the Respondent to provide unit employees with the International Association of Machinists National Pension Fund, National Pension Plan (the Pension Plan) provided by the International Association of Machinists National Pension Fund (the Pension Fund);

(e) A provision requiring the Respondent to submit monthly reports regarding hours worked by unit employees to the Pension Fund;

(f) A provision requiring the Respondent to make monthly contributions on behalf of unit employees to the Pension Fund (the Pension Contributions Provision);

<sup>2</sup> The compliance specification states that neither the Respondent nor the Union served a written termination notice to the other party.

(g) A provision requiring the Respondent to pay fixed wage rates to each classification of employees in the unit (the Classification and Wage Rate Provision).

The Respondent engaged in the following conduct giving rise to these proceedings:

1. Since about September 2014, the Respondent has repudiated and/or failed to continue in effect all of the terms and conditions of the Health and Welfare Provision by refusing to submit regular monthly reports regarding hours worked by unit employees to the Health Fund and by refusing to make and/or timely make monthly contributions on behalf of unit employees to the Health Fund.

2. Since about September 2014, the Respondent has repudiated and/or failed to continue in effect all of the terms and conditions of the Health and Welfare Provision by deducting from the unit employees' paychecks their share of the contributions for the Health Plan but then returning those contributions to the unit employees rather than remitting them to the Health Fund.

3. As a consequence of the Respondent's conduct described in paragraphs 1 and 2 above, unit employees were no longer covered by the Health Plan effective September 30, 2014.

4. Since about August 2014, the Respondent has repudiated and/or failed to continue in effect all of the terms and conditions of the Pension Contributions Provision by refusing to submit monthly reports regarding hours worked by unit employees to the Pension Fund and by refusing to make and/or timely make monthly contributions on behalf of unit employees to the Pension Fund.

5. The subjects set forth in paragraphs 1, 2, and 4 above relate to wages, hours, and other terms and conditions of employment of the unit and are mandatory subjects for the purposes of collective bargaining.

6. The Respondent engaged in the conduct described above in paragraphs 1, 2, and 4 without prior notice to the Union and without affording the Union an opportunity to bargain with the Respondent with respect to this conduct and the effects of this conduct and/or without the Union's consent.

7. About October 2014, the Respondent repudiated and/or failed to continue in effect all of the terms and conditions of the Classification and Wage Rates Provision by granting pay raises to unit employees.

8. The subjects set forth above in paragraph 7 relate to wages, hours, and other terms and conditions of employment of the unit and are mandatory subjects for the purposes of collective bargaining.

9. The Respondent engaged in the conduct described above in paragraph 7 without prior notice to the Union and without affording the Union an opportunity to bargain with the Respondent with respect to this conduct

and the effects of this conduct and/or without the Union's consent.

#### CONCLUSION OF LAW

By the conduct described above, the Respondent has failed and refused to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act in violation of Section 8(a)(5) and (1) of the Act. The Respondent's unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

#### REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.<sup>3</sup> Specifically, having found that the Respondent violated Section 8(a)(5) and (1) by repudiating and/or failing to continue in effect all of the terms and conditions of the 2011–2014 agreement's Health and Welfare Provision since September 2014 by (a) refusing to submit regular monthly reports regarding hours worked by unit employees to the Health Fund; (b) refusing to make and/or timely make monthly contributions on behalf of unit employees to the Health Fund; and (c) deducting from the unit employees' paychecks their share of the contributions for the Health Plan but then returning those contributions to the unit employees rather than remitting them to the Health Fund; all of which resulted in unit employees no longer being covered by the Health Plan effective September 30, 2014, we shall order the Respondent to submit the required monthly reports to the Health Fund, make all contributions required and due under the 2011–2014 agreement to the Health Fund, including the back employee contributions to the Health Plan that the Respondent failed to remit to the Health Fund, as set forth in the amended complaint and compliance specification, Appendix B (Health Fund) (attachment B to this Decision and Order). The Respondent shall make the employees whole for any losses suffered as a result of the Respondent's unlawful conduct by paying their out-of-pocket medical expenses in the amounts set forth in Appendix C to the amended complaint and compliance specification

<sup>3</sup> In its joinder to the General Counsel's Motion for Default Judgment, the Union requests that the Notice include a reference to the Board's app; that the Respondent be required to mail to its employees the Board's Decision and Order and Notice; and that an official of the Respondent be required to print his or her name on the Notice so that employees can easily identify the signing official. We deny this request as the Union has not shown that these additional measures are needed to remedy the effects of the Respondent's unfair labor practices. See, e.g., *AT&T*, 362 NLRB No. 105, slip op. at 1 fn. 3 (2015).

(attachment C to this Decision and Order<sup>4</sup>), plus interest accrued to the date of payment at the rate prescribed in *New Horizons*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB 6 (2010).<sup>5</sup> In addition, we shall require the Respondent to pay any additional amounts due and necessary to make them whole, upon the Regional Director's amendment of the amended complaint and compliance specification to include them. Further, we shall require the Respondent to restore and maintain the Health Plan for unit employees or, if it is unable to do so, obtain a health and welfare plan equivalent to the Health Plan they lost effective September 30, 2014.

In addition, having found that the Respondent violated Section 8(a)(5) and (1) by repudiating and/or failing to continue in effect all of the terms and conditions of the 2011–2014 agreement's Pension Contributions Provision since September 2014, by (a) refusing to submit monthly reports regarding hours worked by unit employees to the Pension Fund, and (b) refusing to make and/or timely make monthly contributions on behalf of unit employees to the Pension Fund, we shall order the Respondent to submit the required monthly reports to the Pension Fund, make all contributions required and due under the 2011–2014 agreement to the Pension Fund as set forth in Appendix A to the amended complaint and compliance specification (attachment A to this Decision and Order), and make the employees whole for any losses suffered as a result of the Respondent's unlawful conduct.

The Respondent shall pay any additional amounts due the Health Fund and the Pension Fund on behalf of the unit employees in accordance with *Merryweather Optical Co.*, 240 NLRB 1213, 1216 fn. 7 (1979).<sup>6</sup> In addition,

<sup>4</sup> As Appendix C to the amended complaint and compliance specification shows private information regarding the employees' medical expenses, we have omitted this information from attachment C to this decision.

<sup>5</sup> The amended complaint and compliance specification alleges, and we find, that the medical expenses that would have been covered by the Health Plan but for the Respondent's failure to make contributions to the Health Fund will continue to accrue until the Respondent secures the reinstatement of the Health Plan for unit employees or obtains a health and welfare plan for unit employees equivalent to the Health Plan they lost effective September 30, 2014. The amended complaint and compliance specification additionally alleges that the Respondent is responsible for any costs employees incurred under the provisions of the Affordable Care Act resulting from the Respondent's failure to make contractually required contributions to the Health Fund. To the extent that such costs were not known when the General Counsel filed the amended complaint and compliance specification, the Regional Director may amend the amended complaint and compliance specification to include these amounts. See, e.g., *Republic Windows & Doors, LLC*, 356 NLRB 1449, 1452 fn. 7 (2011).

<sup>6</sup> The amended complaint and compliance specification specifically alleges, and we find, that the amounts due the funds will continue to accrue, plus interest, to date of payment.

tion, the Respondent shall make the employees whole for expenses they may have incurred as a result of the Respondent's failure to make payments to the Funds, as set forth in *Kraft Plumbing & Heating*, 252 NLRB 891 fn. 2 (1980), enfd. mem. 661 F.2d 940 (9th Cir. 1981). Such amounts shall be computed in the manner set forth in *Ogle Protection Service*, 183 NLRB 682 (1970), enfd. 444 F.2d 502 (6th Cir. 1971), with interest as prescribed in *New Horizons*, supra, compounded daily as prescribed in *Kentucky River Medical Center*, supra.<sup>7</sup> The Respondent shall compensate affected employees for the adverse tax consequences, if any, of receiving lump-sum benefit awards, and file with the Regional Director a report allocating the benefit awards to the appropriate calendar years for each employee. *AdvoServ of New Jersey, Inc.*, 363 NLRB No. 143 (2016).

Having found that the Respondent violated Section 8(a)(5) and (1) by repudiating and/or failing to continue in effect all of the terms and conditions of the 2011–2014 agreement's Classification and Wage Rates Provision by granting pay raises to unit employees, we shall order the Respondent to rescind the unilateral wage increase of unit employees if the Union, as the unit's exclusive collective-bargaining representative, so requests. *Wightman Center*, 301 NLRB 573, 577 (1991); *Mack Trucks*, 294 NLRB 864, 865 (1989).<sup>8</sup>

#### ORDER

The National Labor Relations Board orders that the Respondent, Elliott Manufacturing Company, Fresno, California, its officers, agents, successors, and assigns, shall

##### 1. Cease and desist from

(a) Failing and refusing to bargain collectively and in good faith with Machinists Local Lodge 653, District Lodge 190 (the Union) as the exclusive collective-bargaining representative of the unit employees by repudiating and/or failing to continue in effect the terms and conditions of the 2011–2014 agreement by (1) refusing to submit regular monthly reports regarding hours worked by unit employees to the Health Fund, refusing to make and/or timely make monthly contributions on

<sup>7</sup> To the extent that an employee has made personal contributions to a fund that are accepted by the fund in lieu of the Respondent's delinquent contributions during the period of the delinquency, the Respondent will reimburse the employee, but the amount of such reimbursement will constitute a setoff to the amount that the Respondent otherwise owes the fund.

<sup>8</sup> The Order requires the Respondent to apply the terms and conditions of employment established by the 2011–2014 agreement and the Order's make-whole requirements are based on those terms of employment. We leave to compliance the determination of what effect, if any, the parties' new collective-bargaining agreement has on those remedial obligations.

behalf of unit employees to the Health Fund, and failing to remit to the Health Fund the unit employees' share of contributions to the Health Plan that the Respondent deducted from their paychecks, in abrogation of the 2011–2014 agreement's Health and Welfare Provision; (2) refusing to submit monthly reports regarding hours worked by unit employees to the Pension Fund, and refusing to make and/or timely make monthly contributions on behalf of unit employees to the Pension Fund, in abrogation of the 2011–2014 agreement's Pension Contributions Provision; and (3) granting pay raises to unit employees in abrogation of the 2011–2014 agreement's Classification and Wage Rates Provision. The unit is:

All employees performing work described in and covered by Section 9 of the October 1, 2011 through September 30, 2014 collective-bargaining agreement between the Respondent and the Union; excluding all other employees, guards, and supervisors as defined in the Act.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed to them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Honor and give full force and effect to the terms and conditions of employment provided in the 2011–2014 collective-bargaining agreement.

(b) Restore and maintain the Health Plan for unit employees or, if the Respondent is unable to do so, obtain a health and welfare plan equivalent to the Health Plan they lost effective September 30, 2014.

(c) Make unit employees whole for any losses suffered as a result of the Respondent's unlawful conduct by paying their out-of-pocket medical expenses in the amounts set forth in Attachment C to this decision, totaling \$13,684, plus any additional amounts due and necessary to make them whole for the Respondent's failure to make contributions to the Health Fund, upon the Regional Director's amendment of the amended complaint and compliance specification to include the amounts, in the manner set forth in the remedy section of this decision.

(d) Compensate unit employees for the adverse tax consequences, if any, of receiving lump-sum benefit awards, and file with the Regional Director for Region 32, within 21 days of the date of the amount of benefit payments is fixed, either by agreement or Board order, a report allocating the benefit awards to the appropriate calendar years for each employee.

(e) Remit to the Pension Fund on behalf of unit employees all contributions required and due under the 2011–2014 agreement in the amount set forth in Attach-

ment A to this decision, totaling \$33,413.40, plus any additional amounts due the fund as set forth in the remedy section of this decision.

(f) Submit to the Pension Fund all monthly reports regarding hours worked by unit employees as required by the 2011–2014 agreement.

(g) Remit to the Health Fund on behalf of unit employees all contributions required and due under the 2011–2014 agreement in the amount set forth in Attachment B to this decision, totaling \$111,700.60, plus any additional amounts due the fund as set forth in the remedy section of this decision.

(h) Submit to the Health Fund all regular monthly reports regarding hours worked by unit employees as required by the 2011–2014 agreement.

(i) On request by the Union, rescind the unilateral increase in unit employees' wages.

(j) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of benefit payments due under the terms of this Order.

(k) Within 14 days after service by the Region, post at its facility in Fresno, California, copies of the attached notice marked "Appendix."<sup>9</sup> Copies of the notice, on forms provided by the Regional Director for Region 32, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since August 1, 2014.

<sup>9</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

(l) Within 21 days after service by the Region, file with the Regional Director for Region 32 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. January 25, 2017

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Philip A. Miscimarra, Acting Chairman

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Mark Gaston Pearce, Member

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Lauren McFerran, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

#### APPENDIX

##### NOTICE TO EMPLOYEES

##### POSTED BY ORDER OF THE

##### NATIONAL LABOR RELATIONS BOARD

##### An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

#### FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to bargain collectively and in good faith with Machinists Local Lodge 653, District Lodge 190 (the Union) as the exclusive collective-bargaining representative of unit employees by repudiating and/or failing to continue in effect the terms and conditions of the 2011–2014 agreement by, without consent of the Union, (1) refusing to submit regular monthly reports regarding hours worked by unit employees to the Health Fund, refusing to make and/or timely make monthly contributions on behalf of unit employees to the Health Fund, and failing to remit to the Health Fund the unit employees' share of contributions to the Health Plan

that the Respondent deducted from their paychecks, in abrogation of the 2011–2014 agreement's Health and Welfare Provision; (2) refusing to submit regular monthly reports regarding hours worked by unit employees to the Pension Fund, and refusing to make and/or timely make monthly contributions on behalf of unit employees to the Pension Fund, in abrogation of the 2011–2014 agreement's Pension Contributions Provision; and (3) granting pay raises to unit employees in abrogation of the 2011–2014 agreement's Classification and Wage Rates Provision. The unit is:

All employees performing work described in and covered by Section 9 of the October 1, 2011 through September 30, 2014 collective-bargaining agreement between us and the Union; excluding all other employees, guards, and supervisors as defined in the Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL give full force and effect to the terms and conditions of employment provided in the 2011–2014 agreement.

WE WILL restore and maintain the Health Plan for unit employees or, if we are unable to do so, obtain a health and welfare plan equivalent to the Health Plan unit employees lost effective September 30, 2014.

WE WILL make unit employees whole for any losses suffered as a result of our unlawful conduct by paying their out-of-pocket medical expenses in the amounts set forth in Attachment C of the Board's decision, totaling \$13,684, plus interest and any additional amounts due and necessary to make them whole for our failure to make contributions to the Health Fund, upon the Regional Director's amendment of the amended complaint and compliance specification to include the amounts, plus interest due to the date of payment.

WE WILL compensate unit employees for the adverse tax consequences, if any, of receiving lump-sum benefit awards, and file with the Regional Director for Region 32, within 21 days of the date the amount of the benefit payments is fixed, either by agreement or Board order, a report allocating the benefit awards to the appropriate calendar years for each employee.

WE WILL remit to the Pension Fund on your behalf all contributions required and due under the 2011–2014 agreement in the amount set forth in Attachment A to the Board's Order, totaling \$33,413.40, plus interest and any additional amounts due the fund as set forth in the Board's Order.

WE WILL submit to the Pension Fund all monthly reports regarding hours worked by unit employees as required by the 2011–2014 agreement.

WE WILL remit to the Health Fund on your behalf all contributions required and due under the 2011–2014 agreement in the amount set forth in Attachment B to the Board's Order, totaling \$111,700.60, plus interest and any additional amounts due the fund as set forth in the Board's Order.

WE WILL submit to the Health Fund all regular monthly reports regarding hours worked by unit employees as required by the 2011–2014 agreement.

WE WILL, on request by the Union, rescind the unilateral increase in your wages.

ELLIOTT MANUFACTURING COMPANY

The Board's decision can be found at [www.nlr.gov/case/32-CA-137848](http://www.nlr.gov/case/32-CA-137848) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273–1940.



## DECISIONS OF THE NATIONAL LABOR RELATIONS BOARD

Employee	Last day worked	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Totals per employee
Allan Blackskill	Employed	319.20	334.40	349.60	304.00	349.60	334.40	304.00	304.00	2599.20
Bradley Stimson	9/30/2014	319.20	334.40							653.60
Danny Velez	Employed	319.20	334.40	349.60	304.00	349.60	334.40	304.00	304.00	2599.20
Dennis Montanaro	10/30/2014	319.20	334.40	349.60						1003.20
Edward Powers	Employed	319.20	334.40	349.60	304.00	349.60	334.40	304.00	304.00	2599.20
Guadalupe Velasquez	11/21/2014	319.20	334.40	349.60	304.00					1307.20
Jesse Cook	Employed	319.20	334.40	349.60	304.00	349.60	334.40	304.00	304.00	2599.20
Jose Benny Gallardo	11/14/2014	319.20	334.40	349.60	304.00					1307.20
Michael Lamont	8/7/2014	319.20								319.20
Robert Garcia	9/30/2014	319.20	334.40							653.60
Robert Garcia III	Employed	319.20	334.40	349.60	304.00	349.60	334.40	304.00	304.00	2599.20
Rogelio Mendoza	11/28/2014	319.20	334.40	349.60	304.00					1307.20
Ronald Costilla	9/30/2014	319.20	334.40							653.60
Ruben Saldana	9/30/2014	319.20	334.40							653.60
Russell Johnson	Employed	319.20	334.40	349.60	304.00	349.60	334.40	304.00	304.00	2599.20
Samuel Romero	Employed	319.20	334.40	349.60	304.00	349.60	334.40	304.00	304.00	2599.20
William White	9/30/2014	319.20	334.40							653.60
Total owed- no damages or interest*		5426.40	5350.40	3845.60	3040.00	2447.20	2340.80	2128.00	2128.00	26706.40
Liquidated Damages at 20%		1085.28	1070.08	769.12	608.00	489.44	468.16	425.60	425.60	5341.28
Interest at 18% annually-computed monthly		488.38	401.28	230.74	136.80	73.42	35.11	0.00	0.00	1365.72
TOTAL		7000.06	6821.76	4845.46	3784.80	3010.06	2844.07	2553.60	2553.60	33413.40
GRAND TOTAL										\$33,413.40
*Formula: \$1.90 per hour/8 hours per working day/max of 40 hours per week per employee										

Attachment A - Pension



Employee	Last day worked	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Totals per employee
Allan Blackstill	Employed	1670.00	1670.00	1670.00	1670.00	1670.00	1670.00	1670.00	11690.00
Bradley Stimson	9/30/2014	1670.00							1670.00
Danny Velez	Employed	1670.00	1670.00	1670.00	1670.00	1670.00	1670.00	1670.00	11690.00
Dennis Montanaro	10/30/2014	1670.00	1670.00						3340.00
Edward Powers	Employed	1670.00	1670.00	1670.00	1670.00	1670.00	1670.00	1670.00	11690.00
Guadalupe Velasquez	11/21/2014	1670.00	1670.00	1670.00					5010.00
Jesse Cook	Employed	1670.00	1670.00	1670.00	1670.00	1670.00	1670.00	1670.00	11690.00
Jose Benny Gallardo	11/14/2014	1670.00	1670.00	1670.00					5010.00
Michael Lamont	8/7/2014								0.00
Robert Garcia	9/30/2014	1670.00							1670.00
Robert Garcia III	Employed	1670.00	1670.00	1670.00	1670.00	1670.00	1670.00	1670.00	11690.00
Rogelio Mendoza	11/28/2014	1670.00	1670.00	1670.00					5010.00
Ronald Costilla	9/30/2014	1670.00							1670.00
Ruben Saldana	9/30/2014	1670.00							1670.00
Russell Johnson	Employed	1670.00	1670.00	1670.00	1670.00	1670.00	1670.00	1670.00	11690.00
Samuel Romero	Employed	1670.00	1670.00	1670.00	1670.00	1670.00	1670.00	1670.00	11690.00
William White	9/30/2014	1670.00							1670.00
Total for H&W per month		26720.00	18370.00	16700.00	11690.00	11690.00	11690.00	11690.00	108550.00
Amount paid		5000.00	0.00	0.00	0.00	0.00	0.00	0.00	5000.00
Amount owed - no damages and interest		21720.00	18370.00	16700.00	11690.00	11690.00	11690.00	11690.00	103550.00
Liquidated damages at 5%		1086.00	918.50	835.00	584.50	584.50	584.50	584.50	5177.50
Interest - 10% annual- computed daily		1083.02	759.96	553.62	288.25	188.96	99.28	0.00	2973.10
TOTAL		23889.02	20048.46	18088.62	12562.75	12463.46	12373.78	12274.50	111700.60
GRAND TOTAL									\$111,700.60

Attachment B - Health Welfare

Employee	Last day worked	Totals per employee
Allan Blacksill	Employed	875.00
Bradley Stimson	9/30/2014	0.00
Danny Velez	Employed	3,000.00
Dennis Montanaro	10/30/2014	413.00
Edward Powers	Employed	70.00
Guadalupe Velasquez	11/21/2014	0.00
Jesse Cook	Employed	20.00
Jose Benny Gallardo	11/14/2014	865.00
Michael Lamont	8/7/2014	0.00
Robert Garcia	9/30/2014	651.00
Robert Garcia III	Employed	2,740.00
Rogelio Mendoza	11/28/2014	0.00
Ronald Costilla	9/30/2014	0.00
Ruben Saldana	9/30/2014	0.00
Russell Johnson	Employed	0.00
Samuel Romero	Employed	5,050.00
William White	9/30/2014	0.00
Totals per month		13,684.00
<b>GRAND TOTAL</b>		<b>\$13,684.00</b>

Attachment C – Medical Expenses<sup>1</sup>


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<sup>1</sup> Attachment C has been redacted for the public version of this decision.